IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.2 OF 2006
IN
LETTERS PATENT APPEAL NO.20 OF 1992
AND
REVIEW PETITION NO.3 OF 2006
IN LETTERS PATENT APPEAL NO.19 OF 1992

Meena Arun Navalkar (Wife) ...Applicant

Vs.

Arun L. Navalkar (Husband) ...Respondent

Mr. Uday P. Warunjikar for Applicant/Review Petitioner

COMRA: R.M.S. KHANDEPARKAR &
SMT. ROSHAN DALVI, JJ

DATED : 5TH MAY, 2006.

P.C.

1. By a Judgment and Order dated 12th April, 2006 the above Letters Patent Appeals came to be

disposed of. The applicant has applied for review of the said order and to allow the aforesaid Letters Patent Appeals. She has also applied for stay of the implementation of the judgment and order in the aforesaid 2 Letters Patent Appeals dated 12th April, 2006.

2. The parties separated as husband and wife since July, 1981. The litigation between them commenced since 1984. Initially an order and decree in the MJ.Petition No.980 of 1984 came to be passed. The MJ Petition ended with a decree of nullity of marriage, divorce and other incidental reliefs on 29th January, 1988. The first appeal therefrom ended with a judgment and order dated 15th March, 1991 setting aside the decree of nullity of decree of marriage and the other reliefs.

3. Both the parties having been aggrieved by that order, the aforesaid two Letters Patent Appeals came to be filed, one by the husband and one by the wife. The Letters Patent Appeals have remained on the board of this Court for the last 14 years.

4. The orders passed in the Letters Patent Appeals show that they were fixed for hearing in the week commencing 22nd November, 1999 by an order dated 8th October, 1999. So soon as they were fixed for hearing, the wife took out a civil application for payment of costs of Rs.50,000/- and for stay of the appeal until the costs were paid. This application was taken out on 17th November, 2000.

5. The appeals appeared on board of various Division Benches of this Court and was either removed by the Division Benches or transfer application was filed by the wife if the Division Bench sought to take up the appeal for final hearing.

6. The Civil Application taken out in 2000 by the wife was sought to be pressed by her on 8th September, 2004 before an earlier Division Bench. She herself applied for adjournment for want of papers with her on the date it reached hearing. In her application an order came to be passed against the husband for deposit of Rs.15,000/- in addition to the earlier orders of costs passed against the

husband of Rs.3000/- and Rs.5000/- in the initial petition and in the first appeal. The wife was allowed to withdraw those amounts.

7. On the date of adjournment for hearing of the appeals, a transfer application came to be filed by her making certain allegations against the Division Benches who were to take up two appeals for hearing. Applications were sought to be made by her interalia on medical grounds. The Doctor who issued a medical certificate was summoned. The Doctor' s affidavit showed the medical certificate being issued only upon the request of the wife.

8. A telegram was sent by the wife to the Honourable The Chief Justice of this Court containing certain wild allegations against that Division Bench.

9. A contempt notice was issued against her on 4th November, 2004.

10. Thereafter the matter appeared before another Division Bench on 13th January, 2005. The

wife again applied for time for 4 weeks. The appeals were adjourned to 10th February, 2006 with specific directions that they were peremptorily fixed on that day and would not be adjourned further.

11. On 2nd March, 2005 when the appeals again reached hearing the wife submitted that she has filed transfer applications before The Honourable Chief Justice. The matters were adjourned by the Bench comprising the Honourable The Chief Justice himself on 2nd May, 2005 and 11th July, 2005.

12. Thereafter the appeals appeared before yet another Division Bench on 7th February, 2006 when the wife again applied for adjournment for 4 weeks which was granted as a last chance. The appeals stood adjourned to 2nd March, 2006.

13. The appeals reached hearing before us on 14th March, 2006.

14. The wife remained absent when the matter was called out. The Advocate for the husband Mr. Patwardhan argued the matter. While the

proceedings were in progress the wife appeared. She applied for an adjournment. The appeals were part-heard by that time. The application for adjournment was consequently refused.

15. 15th March, 2006 was a holiday.

16. The appeals stood adjourned to 16th March, 2006. Part arguments of the Advocate for the husband were heard. The wife remained absent.

17. As our judgment dated 12th April, 2006 shows, a pure question of law had to be decided based upon the evidence led by the parties in the MJ Petition No.980 of 1984.

18. The judgment was reserved after hearing the Advocate for the husband since the wife failed to appear on 16th March, 2006.

19. The appeals were notified on board on 12th April, 2006 when the wife appeared before us. Copies of the judgment were made available to both the parties on 12th April, 2006.

20. On the application of the wife a stay of the implementation of our judgment and order has been granted for 8 weeks. We are told that the stay is to expire on 6th June, 2006.

21. The wife has filed these petitions for reviewing our order and judgment upon hearing her.

22. Had this been a case of simplicitor lapse of parties to appear on a given date for hearing and who sincerely and bonafide desired to be heard on a question of fact or law, we would have no hesitation in granting that relief and in hearing the party. However, the aforesaid chronologically has shown a behavior totally lacking for bonafides and an attempt only to delay the judgment in these appeals and defeat justice being done in these cases. We strongly disapprove litigants trying to overreach the Court in such a manner. We strongly feel that such condemnable practice must reach an end to maintain the dignity and decorum of the Courts. In these circumstances both the Review Petitions are rejected.

23. Mr. Warunjikar applies for extension of the stay granted by us. For the same reason of lack of bonafides and an attempt to delay justice, those applications in both the Review Petitions are also rejected.

(SMT. ROSHAN DALVI, J) (R.M.S. KHANDEPARKAR, J.)